

## DOCKET FILE COPY ORIGINAL

**From:** "Dr. Ina Walker" <iwalker@lotusacademy.org>  
**To:** <CCBSecretary@fcc.gov>  
**Date:** Fri, Jul 19, 2002 9:54 PM  
**Subject:** APPEAL FROM SLD OF USAC FUNDING COMMITMENT DECISION LETTER

Dear Sir or Madam:

I am sending the "enclosed attachment" as a formal written appeal from the Funding Commitment Decision Letter of May 21, 2002 in reference to the applicant, The Lotus Academy. Please let me know what additional steps I next need to take in order to complete the appeal process.

Dr. Ina Walker

97-21



THE LOTUS ACADEMY

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July 19, 2002

Federal Communications Commission  
Office of the Secretary  
445 - 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

**Re: APPEAL OF DECISIONS CONTAINED IN FUNDING  
COMMITMENT DECISION LETTER OF MAY 21, 2002  
CC Docket Nos. 96-45 & 97-21**

Dear Sir or Madam:

I am writing this letter on behalf of The Lotus Academy as a direct appeal to the Federal Communications Commission ("FCC") because of our disagreement with various decisions that were made by the Schools & Libraries Division ("SLD") of the Universal Service Administrative Company ("USAC"). I am the executive director and my name is Dr. Ina Walker. My mailing address, telephone number, and fax number are indicated at the top of this letterhead and are the same as that for The Lotus Academy. My e-mail address is [iwalker@lotusacademy.org](mailto:iwalker@lotusacademy.org) and I am the person who can most readily discuss this appeal and the contact person for this matter.

The applicant name for this appeal is The Lotus Academy. The Form 471 Application Number is 330213, and the Billed Entity Number is 20582. Our Applicant Form Identifier is "471TLA". The funding year in question is "2002" (07/01/2002 through 06/30/2003).

First, we are appealing all of the Funding Requests that were decided by the SLD on the grounds that they improperly determined our "discount rate" to be "50%" when it should have been properly calculated to be "90%". The Lotus Academy is an independent, private school whose target clientele are inner-city children in Philadelphia, PA who would not otherwise be able to afford a private school education. Our tuition last year was only \$350.00 per month for ten months of education (September to June, inclusive), and the majority of our students received financial aid in order for their parents to afford even that very modest level of tuition. Our parent body primarily consists of lower-middle income, single-parent households who truly struggle to offer their children a better education than they can get in the public schools in Philadelphia.

Because we are not a public school, our attempts to justify our inclusion in the 90%-discount bracket were somewhat more complicated. However, when asked for documentation by the SLD in April of 2002, we did initiate a survey to determine how many of our parents would have been eligible for the federal National School Lunch Program ("NSLP"). The results demonstrated conclusively that our school qualified for the 90%-discount bracket as almost eighty-two percent of the parents who responded certified that their income and family size qualified them for the NSLP.

The request that we received from the SLD gave us only seven (7) calendar days to verify that we belonged in the 90%-discount bracket, and at the end of this period we had not received more than half of the NSLP questionnaires that we submitted to our parents. In order to avoid being classified arbitrarily because we sent in no information, we submitted the results from the questionnaires that we had received to the SLD. We eventually received more than sixty percent of the questionnaires back from our parents, but that occurred after the deadline we were given by the SLD to send in the information requested relative to the calculation of our "discount bracket". Our final tally of those questionnaires that we received confirmed that almost eighty-five percent of our parents at the Lotus Academy were NSLP eligible. Those statistics should have easily qualified us for the 90%-discount bracket, and on that basis we appeal the decision of the SLD that actually placed us in the **50%**-discount bracket.

The above discount-bracket decision meant that we were not even considered for Funding Request Numbers ("FRN") 891649, 891650, 891651, or 891652 because the SLD "funding cap" would not provide for any requests for applicants who were not in the 90%-discount bracket. Thus, the SLD decision as to the "discount bracket" that was appropriate for The Lotus Academy acted to deprive us of any consideration for ninety-eight percent of the funds that we initially requested for

telecommunications services, internal connections, and Internet access.

Our second ground for appeal relates specifically to FRN 891649 and FRN 891650. For both of these funding requests, The Lotus Academy had developed a technology plan, budget, and invoicing that clearly related to "telecommunications service". The technology plan and description of services that was submitted outlined how the school would utilize a T-1 line to integrate its voice and data needs. They also detailed how cellular phones and pagers would be used as a part of a larger communications network. The description of services specifically stated that "the T-1 voice circuit will handle the telephone traffic as well as the interface with the cellular telephones and pagers".

The paperwork that we submitted with our Form 471 revealed that the T-1 line was to be provided by an area Local Exchange Carrier ("LEC"), US LEC, and that they would offer The Lotus Academy a full range of standard telecommunications services: dial tone, local calling, long distance, and international calling. In spite of all of the above description and clarification, the SLD concluded that because the T-1 line would *also* be used for data traffic (Internet and intranet access), what we were requesting through FRN 891649 and FRN 891650 was not really "**Telecommunication**". The Funding Commitment Decision Letter ("Letter") stated its decision that "the category of service changed from Telecommunications to **Internal Connections**" for both of the above FRN's. This unilateral determination deprived the Lotus Academy of **any** assistance for its legitimate telecommunications services because, coupled with the 50%-discount bracket, it meant that we were not even considered for any aid because our telecommunications needs were now being categorized as "internal connections". This decision has resulted in a situation where we are probably the only applicant that is receiving absolutely no financial assistance for our critical telephone, long distance, cellular, and pager needs.

It is our contention that this particular category change was incorrect and largely ignored the primary purpose for which the services were proposed. A more thorough review of the technology plan should have made it clear that the use of the T-1 for a number of uses was actually a more cost-effective way of fulfilling the multitude of needs that had to be addressed in order to properly serve the information technology objectives of The Lotus Academy. In any case, it seems particularly unfair and unjustified to completely preclude assistance for the obviously "traditional" telecommunication services that we had requested.

Because this appeal is being sent as an electronic mail ("e-mail") "attachment", it is obviously not feasible to include documentation and

other pertinent exhibits. However, any and all of these can be furnished upon request, and we would appreciate a response from you as to the most appropriate manner to forward these documents to you now that we have elected to utilize e-mail as our filing method.

I have tried to follow the instructions contained on the SLD web site that directed me to "keep to the point". Therefore, I have purposely attempted to avoid a long drawn out narrative about our grounds and the justification for our appeal from the decisions contained in the "Letter". If there is a need for additional detail or clarity, I am more than willing to be guided by any request from you that I elaborate on those points or arguments that are not adequately covered in this letter of appeal.

I look forward to hearing from you, and I thank you in advance for your time and attention to this most important matter.

Sincerely,

Dr. Ina Walker  
Executive Director